

SENATE BILL No. 565

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-33-9; IC 31-37-19-14; IC 35-45-9-5; IC 35-47-2-23; IC 35-48-4; IC 35-50-2-2.

Synopsis: Crimes near schools and other facilities. Provides that the sentences for certain crimes will be enhanced if the crime is committed within 500 feet of school property or certain other locations (instead of 1,000 feet as currently provided). Makes conforming amendments.

Effective: July 1, 2009.

Breaux

January 20, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 565

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-33-9-5, AS ADDED BY P.L.1-2005, SECTION
2 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2009]: Sec. 5. If a person other than a member of the administrative
4 staff who is an employee of a school corporation has personally
5 observed:
6 (1) a violation described in section 1 of this chapter; or
7 (2) a delinquent act that would be a violation under section 1 of
8 this chapter if the violator were an adult;
9 in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of the
10 school property of the school corporation employing the person, the
11 person shall immediately report the violation in writing to a member of
12 the administrative staff of the school corporation employing the person.
13 SECTION 2. IC 20-33-9-6, AS ADDED BY P.L.1-2005, SECTION
14 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
15 2009]: Sec. 6. A member of the administrative staff who, based on
16 personal knowledge or on the report of another employee of the school
17 corporation, believes that a person has committed a violation described

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in section 1 of this chapter or a delinquent act that would be a violation described in section 1 of this chapter if the violator were an adult in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of the school property of the school corporation employing the member, shall immediately report:

- (1) a general description of the violation;
- (2) the name or a general description of each violator known to the member;
- (3) the date, time, and ~~and~~ place of the violation;
- (4) the name or a general description of each person who the member knows witnessed any part of the violation; and
- (5) a general description and the location of any property that the member knows was involved in the violation;

in writing to a law enforcement officer.

SECTION 3. IC 31-37-19-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) This section applies if:

- (1) a child has been previously determined to be a delinquent child under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal) due to the commission of a delinquent act described in section 13(a)(1), 13(a)(2), or 13(a)(3) of this chapter (or IC 31-6-4-15.9(d)(1), IC 31-6-4-15.9(d)(2), or IC 31-6-4-15.9(d)(3) before its repeal); or
- (2) the delinquent act described in section 13(a)(1), 13(a)(2), or 13(a)(3) of this chapter (or IC 31-6-4-15.9(d)(1), IC 31-6-4-15.9(d)(2), or IC 31-6-4-15.9(d)(3) before its repeal) was committed:
 - (A) on school property;
 - (B) within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property; or
 - (C) on a school bus.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the bureau of motor vehicles to invalidate the child's operator's license for a period specified by the court of at least six (6) months but not more than two (2) years from the time the child would otherwise be eligible for a learner's permit.

SECTION 4. IC 35-45-9-5, AS ADDED BY P.L.192-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection (b), an individual who knowingly or intentionally solicits, recruits, entices, or intimidates another individual to join a criminal gang commits criminal gang recruitment, a Class D felony.

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(b) The offense under subsection (a) is a Class C felony if:

- (1) the solicitation, recruitment, enticement, or intimidation occurs within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property; or
- (2) the individual who is solicited, recruited, enticed, or intimidated is less than eighteen (18) years of age.

SECTION 5. IC 35-47-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) A person who violates section 3, 4, 5, 14, 15, or 16 of this chapter commits a Class B misdemeanor.

(b) A person who violates section 7, 17, or 18 of this chapter commits a Class C felony.

(c) A person who violates section 1 of this chapter commits a Class A misdemeanor. However, the offense is a Class C felony:

- (1) if the offense is committed:
 - (A) on or in school property;
 - (B) within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property; or
 - (C) on a school bus; or
- (2) if the person:
 - (A) has a prior conviction of any offense under:
 - (i) this subsection; or
 - (ii) subsection (d); or
 - (B) has been convicted of a felony within fifteen (15) years before the date of the offense.

(d) A person who violates section 22 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior conviction of any offense under this subsection or subsection (c), or if the person has been convicted of a felony within fifteen (15) years before the date of the offense.

SECTION 6. IC 35-48-4-1, AS AMENDED BY P.L.151-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A person who:

- (1) knowingly or intentionally:
 - (A) manufactures;
 - (B) finances the manufacture of;
 - (C) delivers; or
 - (D) finances the delivery of;
 cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II; or
- (2) possesses, with intent to:
 - (A) manufacture;

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1 (B) finance the manufacture of;
 2 (C) deliver; or
 3 (D) finance the delivery of;
 4 cocaine or a narcotic drug, pure or adulterated, classified in
 5 schedule I or II;
 6 commits dealing in cocaine or a narcotic drug, a Class B felony, except
 7 as provided in subsection (b).

8 (b) The offense is a Class A felony if:

9 (1) the amount of the drug involved weighs three (3) grams or
 10 more;

11 (2) the person:

12 (A) delivered; or

13 (B) financed the delivery of;

14 the drug to a person under eighteen (18) years of age at least three
 15 (3) years junior to the person; or

16 (3) the person manufactured, delivered, or financed the delivery
 17 of the drug:

18 (A) on a school bus; or

19 (B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)**
 20 feet of:

21 (i) school property;

22 (ii) a public park;

23 (iii) a family housing complex; or

24 (iv) a youth program center.

25 SECTION 7. IC 35-48-4-1.1, AS ADDED BY P.L.151-2006,
 26 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2009]: Sec. 1.1. (a) A person who:

28 (1) knowingly or intentionally:

29 (A) manufactures;

30 (B) finances the manufacture of;

31 (C) delivers; or

32 (D) finances the delivery of;

33 methamphetamine, pure or adulterated; or

34 (2) possesses, with intent to:

35 (A) manufacture;

36 (B) finance the manufacture of;

37 (C) deliver; or

38 (D) finance the delivery of;

39 methamphetamine, pure or adulterated;

40 commits dealing in methamphetamine, a Class B felony, except as
 41 provided in subsection (b).

42 (b) The offense is a Class A felony if:

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(1) the amount of the drug involved weighs three (3) grams or more;

(2) the person:

(A) delivered; or

(B) financed the delivery of;

the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(3) the person manufactured, delivered, or financed the delivery of the drug:

(A) on a school bus; or

(B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

SECTION 8. IC 35-48-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, or hashish; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, or hashish;

commits dealing in a schedule I, II, or III controlled substance, a Class B felony, except as provided in subsection (b).

(b) The offense is a Class A felony if:

(1) the person:

(A) delivered; or

(B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(2) the person delivered or financed the delivery of the substance:

(A) on a school bus; or

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(B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center.

SECTION 9. IC 35-48-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule IV; or

(2) possesses, with intent to manufacture or deliver, a controlled substance, pure or adulterated, classified in schedule IV;

commits dealing in a schedule IV controlled substance, a Class C felony, except as provided in subsection (b).

(b) The offense is a Class B felony if:

(1) the person:

- (A) delivered; or
- (B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(2) the person delivered or financed the delivery of the substance:

- (A) on a school bus; or
- (B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center.

SECTION 10. IC 35-48-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule V; or

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(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a controlled substance, pure or adulterated, classified in schedule V;

commits dealing in a schedule V controlled substance, a Class D felony, except as provided in subsection (b).

(b) The offense is a Class B felony if:

(1) the person:

(A) delivered; or

(B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(2) the person delivered or financed the delivery of the substance:

(A) on a school bus; or

(B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

SECTION 11. IC 35-48-4-6, AS AMENDED BY P.L.151-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) or a narcotic drug (pure or adulterated) classified in schedule I or II, commits possession of cocaine or a narcotic drug, a Class D felony, except as provided in subsection (b).

(b) The offense is:

(1) a Class C felony if:

(A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or

(B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);

(2) a Class B felony if the person in possession of the cocaine or narcotic drug possesses less than three (3) grams of pure or adulterated cocaine or a narcotic drug:

(A) on a school bus; or

(B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)**

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feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center; and

(3) a Class A felony if the person possesses the cocaine or narcotic drug in an amount (pure or adulterated) weighing at least three (3) grams:

(A) on a school bus; or

(B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)**

feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center.

SECTION 12. IC 35-48-4-6.1, AS ADDED BY P.L.151-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Class D felony, except as provided in subsection (b).

(b) The offense is:

(1) a Class C felony if:

(A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or

(B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);

(2) a Class B felony if the person in possession of the methamphetamine possesses less than three (3) grams of pure or adulterated methamphetamine:

(A) on a school bus; or

(B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)**

feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center; and

(3) a Class A felony if the person possesses the methamphetamine in an amount (pure or adulterated) weighing at least three (3) grams:

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- (A) on a school bus; or
 (B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of:
 (i) school property;
 (ii) a public park;
 (iii) a family housing complex; or
 (iv) a youth program center.

SECTION 13. IC 35-48-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A person who, without a valid prescription or order of a practitioner acting in the course of ~~his the practitioner's~~ professional practice, knowingly or intentionally possesses a controlled substance (pure or adulterated) classified in schedule I, II, III, or IV, except marijuana or hashish, commits possession of a controlled substance, a Class D felony. However, the offense is a Class C felony if the person in possession of the controlled substance possesses the controlled substance:

- (1) on a school bus; or
 (2) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of:
 (A) school property;
 (B) a public park;
 (C) a family housing complex; or
 (D) a youth program center.

(b) A person who, without a valid prescription or order of a practitioner acting in the course of ~~his the practitioner's~~ professional practice, knowingly or intentionally obtains:

- (1) more than four (4) ounces of schedule V controlled substances containing codeine in any given forty-eight (48) hour period unless pursuant to a prescription;
 (2) a schedule V controlled substance pursuant to written or verbal misrepresentation; or
 (3) possession of a schedule V controlled substance other than by means of a prescription or by means of signing an exempt narcotic register maintained by a pharmacy licensed by the Indiana state board of pharmacy;

commits a Class D felony.

SECTION 14. IC 35-48-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) A person who:

- (1) knowingly or intentionally:
 (A) manufactures;
 (B) finances the manufacture of;
 (C) delivers; or

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1 (D) finances the delivery of;
 2 marijuana, hash oil, or hashish, pure or adulterated; or
 3 (2) possesses, with intent to:
 4 (A) manufacture;
 5 (B) finance the manufacture of;
 6 (C) deliver; or
 7 (D) finance the delivery of;
 8 marijuana, hash oil, or hashish, pure or adulterated;
 9 commits dealing in marijuana, hash oil, or hashish, a Class A
 10 misdemeanor, except as provided in subsection (b).

11 (b) The offense is:

12 (1) a Class D felony if:

13 (A) the recipient or intended recipient is under eighteen (18)
 14 years of age;

15 (B) the amount involved is more than thirty (30) grams but
 16 less than ten (10) pounds of marijuana or two (2) grams but
 17 less than three hundred (300) grams of hash oil or hashish; or

18 (C) the person has a prior conviction of an offense involving
 19 marijuana, hash oil, or hashish; and

20 (2) a Class C felony if the amount involved is ten (10) pounds or
 21 more of marijuana or three hundred (300) or more grams of hash
 22 oil or hashish or the person delivered or financed the delivery of
 23 marijuana, hash oil, or hashish:

24 (A) on a school bus; or

25 (B) in, on, or within ~~one thousand (1,000)~~ **five hundred (500)**
 26 feet of:

27 (i) school property;

28 (ii) a public park;

29 (iii) a family housing complex; or

30 (iv) a youth program center.

31 SECTION 15. IC 35-48-4-14.5, AS AMENDED BY P.L.151-2006,
 32 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2009]: Sec. 14.5. (a) As used in this section, "chemical
 34 reagents or precursors" refers to one (1) or more of the following:

35 (1) Ephedrine.

36 (2) Pseudoephedrine.

37 (3) Phenylpropanolamine.

38 (4) The salts, isomers, and salts of isomers of a substance
 39 identified in subdivisions (1) through (3).

40 (5) Anhydrous ammonia or ammonia solution (as defined in
 41 IC 22-11-20-1).

42 (6) Organic solvents.

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- 1 (7) Hydrochloric acid.
- 2 (8) Lithium metal.
- 3 (9) Sodium metal.
- 4 (10) Ether.
- 5 (11) Sulfuric acid.
- 6 (12) Red phosphorous.
- 7 (13) Iodine.
- 8 (14) Sodium hydroxide (lye).
- 9 (15) Potassium dichromate.
- 10 (16) Sodium dichromate.
- 11 (17) Potassium permanganate.
- 12 (18) Chromium trioxide.
- 13 (19) Benzyl cyanide.
- 14 (20) Phenylacetic acid and its esters or salts.
- 15 (21) Piperidine and its salts.
- 16 (22) Methylamine and its salts.
- 17 (23) Isosafrole.
- 18 (24) Safrole.
- 19 (25) Piperonal.
- 20 (26) Hydriodic acid.
- 21 (27) Benzaldehyde.
- 22 (28) Nitroethane.
- 23 (29) Gamma-butyrolactone.
- 24 (30) White phosphorus.
- 25 (31) Hypophosphorous acid and its salts.
- 26 (32) Acetic anhydride.
- 27 (33) Benzyl chloride.
- 28 (34) Ammonium nitrate.
- 29 (35) Ammonium sulfate.
- 30 (36) Hydrogen peroxide.
- 31 (37) Thionyl chloride.
- 32 (38) Ethyl acetate.
- 33 (39) Pseudoephedrine hydrochloride.
- 34 (b) A person who possesses more than ten (10) grams of ephedrine,
- 35 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
- 36 commits a Class D felony. However, the offense is a Class C felony if
- 37 the person possessed:
- 38 (1) a firearm while possessing more than ten (10) grams of
- 39 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
- 40 adulterated; or
- 41 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
- 42 phenylpropanolamine, pure or adulterated, in, on, or within one

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1 ~~thousand (1,000)~~ **five hundred (500)** feet of:

- 2 (A) school property;
 3 (B) a public park;
 4 (C) a family housing complex; or
 5 (D) a youth program center.

6 (c) A person who possesses anhydrous ammonia or ammonia
 7 solution (as defined in IC 22-11-20-1) with the intent to manufacture
 8 methamphetamine or amphetamine, schedule II controlled substances
 9 under IC 35-48-2-6, commits a Class D felony. However, the offense
 10 is a Class C felony if the person possessed:

- 11 (1) a firearm while possessing anhydrous ammonia or ammonia
 12 solution (as defined in IC 22-11-20-1) with intent to manufacture
 13 methamphetamine or amphetamine, schedule II controlled
 14 substances under IC 35-48-2-6; or
 15 (2) anhydrous ammonia or ammonia solution (as defined in
 16 IC 22-11-20-1) with intent to manufacture methamphetamine or
 17 amphetamine, schedule II controlled substances under
 18 IC 35-48-2-6, in, on, or within ~~one thousand (1,000)~~ **five hundred**
 19 **(500)** feet of:

- 20 (A) school property;
 21 (B) a public park;
 22 (C) a family housing complex; or
 23 (D) a youth program center.

24 (d) Subsection (b) does not apply to a:

- 25 (1) licensed health care provider, pharmacist, retail distributor,
 26 wholesaler, manufacturer, warehouseman, or common carrier or
 27 an agent of any of these persons if the possession is in the regular
 28 course of lawful business activities; or
 29 (2) person who possesses more than ten (10) grams of a substance
 30 described in subsection (b) if the substance is possessed under
 31 circumstances consistent with typical medicinal or household use,
 32 including:
 33 (A) the location in which the substance is stored;
 34 (B) the possession of the substance in a variety of:
 35 (i) strengths;
 36 (ii) brands; or
 37 (iii) types; or
 38 (C) the possession of the substance:
 39 (i) with different expiration dates; or
 40 (ii) in forms used for different purposes.

41 (e) A person who possesses two (2) or more chemical reagents or
 42 precursors with the intent to manufacture a controlled substance

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commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within ~~one thousand~~ **(1,000) five hundred (500)** feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture a controlled substance commits unlawful sale of a precursor, a Class D felony.

SECTION 16. IC 35-48-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) For an offense under this chapter that requires proof of:

(1) delivery of cocaine, a narcotic drug, methamphetamine, or a controlled substance;

(2) financing the delivery of cocaine, a narcotic drug, methamphetamine, or a controlled substance; or

(3) possession of cocaine, a narcotic drug, methamphetamine, or a controlled substance;

within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property, a public park, a family housing complex, or a youth program center, the person charged may assert the defense in subsection (b) or (c).

(b) It is a defense for a person charged under this chapter with an offense that contains an element listed in subsection (a) that:

(1) a person was briefly in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property, a public park, a family housing complex, or a youth program center; and

(2) no person under eighteen (18) years of age at least three (3) years junior to the person was in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of the school property, public park, family housing complex, or youth program center at the time of the offense.

(c) It is a defense for a person charged under this chapter with an

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offense that contains an element listed in subsection (a) that a person was in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property, a public park, a family housing complex, or a youth program center at the request or suggestion of a law enforcement officer or an agent of a law enforcement officer.

(d) The defense under this section applies only to the element of the offense that requires proof that the delivery, financing of the delivery, or possession of cocaine, a narcotic drug, methamphetamine, or a controlled substance occurred in, on, or within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property, a public park, a family housing complex, or a youth program center.

SECTION 17. IC 35-50-2-2, AS AMENDED BY P.L.64-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) Except as provided in subsection (i), with respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A felony or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

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- 1 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- 2 (D) kidnapping (IC 35-42-3-2);
- 3 (E) confinement (IC 35-42-3-3) with a deadly weapon;
- 4 (F) rape (IC 35-42-4-1) as a Class A felony;
- 5 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
- 6 felony;
- 7 (H) except as provided in subsection (i), child molesting
- 8 (IC 35-42-4-3) as a Class A or Class B felony, unless:
- 9 (i) the felony committed was child molesting as a Class B
- 10 felony;
- 11 (ii) the victim was not less than twelve (12) years old at the
- 12 time the offense was committed;
- 13 (iii) the person is not more than four (4) years older than the
- 14 victim, or more than five (5) years older than the victim if
- 15 the relationship between the person and the victim was a
- 16 dating relationship or an ongoing personal relationship (not
- 17 including a family relationship);
- 18 (iv) the person did not have a position of authority or
- 19 substantial influence over the victim; and
- 20 (v) the person has not committed another sex offense (as
- 21 defined in IC 11-8-8-5.2) (including a delinquent act that
- 22 would be a sex offense if committed by an adult) against any
- 23 other person;
- 24 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
- 25 with a deadly weapon;
- 26 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 27 injury;
- 28 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 29 or with a deadly weapon;
- 30 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 31 weapon;
- 32 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 33 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 34 (O) dealing in cocaine or a narcotic drug (IC 35-48-4-1) if the
- 35 court finds the person possessed a firearm (as defined in
- 36 IC 35-47-1-5) at the time of the offense, or the person
- 37 delivered or intended to deliver to a person under eighteen
- 38 (18) years of age at least three (3) years junior to the person
- 39 and was on a school bus or within ~~one thousand (1,000)~~ **five**
- 40 **hundred (500)** feet of:
- 41 (i) school property;
- 42 (ii) a public park;

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- 1 (iii) a family housing complex; or
 2 (iv) a youth program center;
 3 (P) dealing in methamphetamine (IC 35-48-4-1.1) if the court
 4 finds the person possessed a firearm (as defined in
 5 IC 35-47-1-5) at the time of the offense, or the person
 6 delivered or intended to deliver the methamphetamine pure or
 7 adulterated to a person under eighteen (18) years of age at
 8 least three (3) years junior to the person and was on a school
 9 bus or within ~~one thousand (1,000)~~ **five hundred (500)** feet of:
 10 (i) school property;
 11 (ii) a public park;
 12 (iii) a family housing complex; or
 13 (iv) a youth program center;
 14 (Q) dealing in a schedule I, II, or III controlled substance
 15 (IC 35-48-4-2) if the court finds the person possessed a firearm
 16 (as defined in IC 35-47-1-5) at the time of the offense, or the
 17 person delivered or intended to deliver to a person under
 18 eighteen (18) years of age at least three (3) years junior to the
 19 person and was on a school bus or within ~~one thousand (1,000)~~
 20 **five hundred (500)** feet of:
 21 (i) school property;
 22 (ii) a public park;
 23 (iii) a family housing complex; or
 24 (iv) a youth program center;
 25 (R) an offense under IC 9-30-5 (operating a vehicle while
 26 intoxicated) and the person who committed the offense has
 27 accumulated at least two (2) prior unrelated convictions under
 28 IC 9-30-5;
 29 (S) an offense under IC 9-30-5-5(b) (operating a vehicle while
 30 intoxicated causing death);
 31 (T) aggravated battery (IC 35-42-2-1.5); or
 32 (U) disarming a law enforcement officer (IC 35-44-3-3.5).
 33 (c) Except as provided in subsection (e), whenever the court
 34 suspends a sentence for a felony, it shall place the person on probation
 35 under IC 35-38-2 for a fixed period to end not later than the date that
 36 the maximum sentence that may be imposed for the felony will expire.
 37 (d) The minimum sentence for a person convicted of voluntary
 38 manslaughter may not be suspended unless the court finds at the
 39 sentencing hearing that the crime was not committed by means of a
 40 deadly weapon.
 41 (e) Whenever the court suspends that part of the sentence of a sex
 42 or violent offender (as defined in IC 11-8-8-5) that is suspendible under

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1 subsection (b), the court shall place the sex or violent offender on
 2 probation under IC 35-38-2 for not more than ten (10) years.

3 (f) An additional term of imprisonment imposed under
 4 IC 35-50-2-11 may not be suspended.

5 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 6 IC 35-47-10-7 may not be suspended if the commission of the offense
 7 was knowing or intentional.

8 (h) A term of imprisonment imposed for an offense under
 9 IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be
 10 suspended.

11 (i) If a person is:

12 (1) convicted of child molesting (IC 35-42-4-3) as a Class A
 13 felony against a victim less than twelve (12) years of age; and

14 (2) at least twenty-one (21) years of age;

15 the court may suspend only that part of the sentence that is in excess of
 16 thirty (30) years.

17 SECTION 18. [EFFECTIVE JULY 1, 2009] IC 31-37-19-14,
 18 IC 35-45-9-5, IC 35-47-2-23, IC 35-48-4-1, IC 35-48-4-1.1,
 19 IC 35-48-4-2, IC 35-48-4-3, IC 35-48-4-4, IC 35-48-4-6,
 20 IC 35-48-4-6.1, IC 35-48-4-7, IC 35-48-4-10, IC 35-48-4-14.5, and
 21 IC 35-48-4-16, all as amended by this act, apply only to crimes and
 22 delinquent acts committed after June 30, 2009.

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